

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07cv001

JAMES R. HANEY, SR.,)
)
PLAINTIFF,)
)
v.) ORDER and NOTICE
)
JEFF HANEY, et al.,)
)
DEFENDANT.)
)

THIS MATTER is before this Court upon Defendant's Motion for Summary Judgment, (Doc. Nos. 12), filed on December 17, 2007.

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises Plaintiff, who is proceeding pro se, of the heavy burden that he carries in responding to Defendant's Motion for Summary Judgment.

Rule 56(e), Federal Rules of Civil Procedure, provides:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

This language means that if Plaintiff has any evidence to offer to show that there is a genuine issue for trial, he must now present it to this Court in a form which would otherwise be admissible at trial, that is, in the form of affidavits or unsworn declarations. An affidavit is a written statement sworn before a notary public. An unsworn statement, made and signed under

the penalty of perjury, may also be submitted. Affidavits or sworn statements must be presented by Plaintiff to this Court within thirty (30) days of the entry of this Order. As stated by Rule 56(e), Plaintiff's failure to respond may result in granting summary judgment to Defendant, that is, the dismissal of the complaint with prejudice.

IT IS, THEREFORE, ORDERED that Plaintiff has thirty (30) days from the entry of this Order to file his response, including any evidence, to Defendant's Motion for Summary Judgment.

The Clerk is directed to send copies of this Order and Notice to the parties, including James R. Haney, Sr., P.O. Box 92, Huntersville, N.C. 28070.

Signed: January 14, 2008



Robert J. Conrad, Jr.
Chief United States District Judge
